



MAINE LOBBYIST HANDBOOK

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WHAT IS LOBBYING?

Lobbying means communicating directly with any official in the Legislature for the purpose of influencing any legislative action or with the Governor for the purpose of influencing the approval or veto of a legislative action when reimbursement for expenditures or compensation is made for those activities. Lobbying includes time spent preparing and submitting to the Governor, a Legislator or a legislative committee oral or written proposals for, or testimony or analyses concerning, a legislative action.

Lobbying includes time for services for the purpose of lobbying – speaking to a Legislator, giving committee testimony, research and analysis of specific LDs, etc. – and is doing so on the lobbyist employer's time. Meaning, if the employer is being billed and the lobbyist compensated it is considered reportable lobbying.

WHO IS A LOBBYIST?

Lobbyist means a person who is employed by another person for the purpose of and who engages in lobbying more than 8 hours in any calendar month. *Lobbyist* includes a person who is employed full-time solely for the purpose of lobbying or a person for whom lobbying is incidental to their regular employment. The term lobbyist does not include a lobbyist associate.

Person means an individual, corporation, proprietorship, joint stock company, business trust, syndicate, association, professional association, labor union, firm, partnership, club, or other organization, whether profit or nonprofit, or any municipality or quasi-municipality or group of persons acting in concert.

Employer means a person who agrees to reimburse for expenditures or to compensate a person who in return agrees to provide lobbying services. *Employer* includes any political action committee as defined in 3 M.R.S.A. §312-A(13) which communicates through or uses the services of a lobbyist to make campaign contributions or to influence in any way the political process.

WHO IS A LOBBYIST ASSOCIATE?

Lobbyist associate means someone who:

- is a partner, associate, co-employee, or employee of a lobbyist, and
- spends more than 8 hours in any calendar month lobbying on behalf of the employer named on the lobbyist registration.

REGISTRATION

Lobbyists must file a joint registration for each employer (client) with the Ethics Commission once they have reached 8 hours of lobbying in a calendar month. The registration form and fee must be filed no later than 15 business days after the lobbyist has lobbied more than 8 hours in a calendar month. This is the only report that must be filed on paper. All other reports must be filed electronically.

Registration fees: Lobbyist: \$200
 Lobbyist Associate: \$100

Once registered, lobbyists are required to file monthly reports with the Commission even if no work was performed during the month that is covered by the report. Monthly reports must be filed by every lobbyist who is registered, even if the lobbyist has registered before meeting the 8-hour threshold.

The Lobbyist/Employer Joint Registration form is filed on an annual basis. The lobbying year is December 1st - November 30th. All registrations expire on November 30th.

An employee of the State of Maine who meets the requirements as a lobbyist for a state agency must register with the Commission using a special form, but is not required to file monthly or annual reports.

ELECTRONIC FILING

Beginning January 1, 2006, all lobbyists must file monthly session reports and annual reports through the Commission's electronic filing system. The Commission may make an exception to the electronic filing requirement if a lobbyist submits a written request that states that the lobbyist lacks access to the technology or does not have the technological ability to file reports electronically. The request for exception must be submitted at least 10 days prior to the deadline for the first report that the lobbyist is required to file for the lobbying year. The Commission will grant reasonable requests for exceptions.

The Commission will provide the lobbyist a user code, temporary password and directions to file reports electronically. All reports, except the registration, can be filed electronically.

Lobbyists with multiple employers will have one user code and password.

LOBBYING FORMS

<http://www.maine.gov/ethics/Lobbyists.htm>

If the lobbyist has received a waiver of the electronic filing requirement, he or she may file paper reports with the Commission. All lobbyist forms are downloadable from the Commission's website.

Registration

Lobbyist and employer file jointly.

Monthly Disclosure Reports

Lobbyist files either the *Short* or *Long* form.

Request for Non-Session Waiver

Lobbyist files only if seeking a waiver of the monthly filing requirement through the end of the lobbying year.

Termination Report

Employer files only if the lobbyist is no longer engaged to lobby by the employer.

Annual Report

Lobbyist and employer file jointly.

**** Reports are due by 5:00 p.m. on the due date.**

Registration

The registration indicates the name of the lobbyist, any lobbyist associates, any persons authorized to sign reports on the lobbyist's behalf, the employer, the primary contact for the lobbyist at the employer, the dates when lobbying commenced and reached 8 hours in a calendar month, the lobbyist's rate of compensation, and the nature of business of the employer.

If the lobbyist is employed full-time by the employer, the amount of compensation should be a pro-rated share of the lobbyist's compensation based on the proportion of his or her time spent on lobbying.

Amendments to the registration may be made at any time. Additional lobbyist associates may be added, provided that the \$100 fee is submitted with the amendment.

Monthly Disclosure Report

Every registered lobbyist must file a monthly report with the Commission on the 15th day of the month unless a termination or non-session waiver request has been filed. If the deadline falls on a weekend or holiday, the report is due on the next regular business day. Reports are due by 5:00 p.m. on the deadline. The lobbyist shall complete the Short Form or Long Form to report any compensation received or work performed during the previous month.

Short Form This form may be completed only if the lobbyist performed no work and received no compensation for the preceding month. If both criteria are not met, the long form must be completed.

Long Form If the lobbyist worked or received compensation during the previous month, he or she is required to file the long form. The long form discloses how much compensation the lobbyist received, expenditures made by the lobbyist, and bills or issues worked on specifically during the month of the report. Cumulative information for the lobbying year is reported on the annual report.

Directions for completing the Long Form:

- Question 1 – Enter the month and year that is the subject of the report.
- Question 2 – Provide contact information for the lobbyist.
- Question 3 – Provide contact information for the employer, including the lobbyist's principal contact at the employer.
- Question 4 – List of lobbyist associates who acted on behalf of the lobbyist in representing the employer during the month.
- Question 5 – Specify the compensation expected (received or billed) for the month that is the subject of the report.
 - *Salaried or hourly employees* should compute the amount by multiplying the hours engaged in lobbying activities by the employee's regular rate of pay based on a 40-hour week.
 - Lobbyists who receive a *lump sum payment* to cover the entire session must break down the payment among the monthly reports. The amount should be divided by the months expected to lobby as if it were received in installments. If lobbying ends sooner than expected, simply put the remaining lump sum on the last monthly lobbyist disclosure report.
- Question 6 – Specify the amount of expenditures made during the month of the report (for preparation of documents, research, etc.) for which the lobbyist expects to be reimbursed.
- Question 7A – Specify the total money expended directly to or on behalf of members of the legislative branch or their immediate family totaling less than \$25, such as a meal or coffee.
- Question 7B – Specify the amount from 7A that the lobbyist expects to be reimbursed.
- Question 8 – Enter the name of any Legislator or staff member, or member of their immediate family, on whose behalf the employer or lobbyist spent more than \$25 during the month, including the date, amount, and purpose of the payment.
- Question 9 – If the lobbyist or employer spent more than a total of \$250 on an event for officials of the Legislature or administrative agencies or members of their families enter the date, cost and description of the event and a list of the officials and family members who attended. This includes but is not limited to events held by the employer or lobbyist to present information to legislators, such as legislative breakfasts or catered events in the State House Hall of Flags.

- Question 10 – List each bill number or issue worked on during the month that is the subject of the report. Do not use this section of the monthly form as a cumulative list of all bills worked on during the year.
- Question 11 – List any bills for which the lobbyist was compensated, or expects to be compensated, more than \$1,000 during the previous month.
- Question 12 – If the lobbyist has received more than \$1,000 for any bills listed in Question 11, please list all original sources of any compensation received from the employer. An “original source” is any third-party that has given more than \$500 to the employer to pay for lobbying on a particular issue or bill.

The Commission encourages lobbyists to disclose as much information as possible. If you have questions about how to complete a monthly report, please call the lobbyist registrar before filing the report at 287-4179.

Request for Non-Session Waiver

If at the end of the legislative session a lobbyist does not expect to perform any additional lobbying through the end of the lobbying year (November 30th), the lobbyist can request a non-session waiver. The Commission will automatically grant a waiver of the monthly reporting requirement through the lobbying year. The lobbyist and employer are still obligated, however, to file the annual report by December 30th. If the lobbyist resumes lobbying after the waiver is granted, monthly disclosure reports must be filed for the months in which lobbying is conducted. The lobbyist does not need to re-file the non-session waiver once lobbying ceases.

Termination Report

If the employer terminates the employment of a lobbyist prior to November 30th, the employer may file a termination report indicating that the lobbyist is no longer engaged by the employer. Upon receiving the termination form, the Commission will waive the monthly reporting requirement for the rest of the lobbying year. The lobbyist and employer must nevertheless file a joint annual report.

Annual Report

All registered lobbyists are required to file the Joint Lobbyist/Employer Annual Report covering all activity during the lobbying year (December 1st – November 30th). This cumulative report is due by 5:00 p.m. on December 30th.

PENALTIES FOR LATE FILING

It is critical that you file your lobbyist reports on time, as there are substantial penalties for late filing. Late filing of the Joint Lobbyist/Employer Registration results in a \$200 penalty for each month the report is filed late. Monthly Reports have a penalty of \$100 for each month the report is filed late. The Annual Lobbyist/Employer Report has a \$200 penalty for each month the report is delinquent.

Penalty notices are mailed within 3 calendar days of a missed deadline by certified mail to the lobbyist. Within 10 days of receiving the penalty notice, the lobbyist may request that the Commission waive or reduce the penalty if mitigating circumstances exist. Mitigating circumstances include a valid emergency, an error by the Commission staff, or other evidence that the lobbyist made a bona fide effort to file the report in accordance with the statutory requirements. The members of the Commission will make a decision on the waiver request at their next monthly meeting. If no request for a waiver is made, the penalty must be paid within 30 days.

GIFTS AND CAMPAIGN CONTRIBUTIONS

Gifts

In their monthly and annual reports, lobbyists must report any amounts over \$25 paid directly to or spent on behalf of legislators, officials of the legislative branch, and members of their immediate family.

The Legislative Ethics Law forbids a Legislator or a member of his or her immediate family from accepting a gift (other than a campaign contribution) from persons affected by legislation or who have an interest in a business affected by proposed legislation, where it is known or reasonably should be known that the purpose of the donor in making the gift is to influence the Legislator in the performance of his official duties or vote, or is intended as a reward for action on his part. (1 M.R.S.A. §1014(B))

In addition, Maine's Criminal Code contains an offense for improper gifts to public servants. (17-A M.R.S.A. §605) A person violates this section if he knowingly gives, offers, or promises any pecuniary benefit to a public servant if the public servant knows or reasonably should know that the purpose of the donor in making the gift is to influence the public servant in the performance of the public servant's official duties or vote, or is intended as a reward for action on the part of the public servant.

The Commission has developed Guidelines on Acceptance of Gifts dated October 21, 1999, which are available on the Commission's website, www.maine.gov/ethics. Lobbyists are strongly encouraged to review these guidelines before providing any gifts to Legislators, officials of the executive branch, or their staff or families.

Campaign Contributions

During any time in which the Legislature is in session, lobbyists, lobbyist associates, and their employers may not intentionally make a campaign contribution to the Governor, members of the Legislature, constitutional officers of the State, or their staff or agents. Several exceptions apply to the prohibition, including contributions made after March 15th of an election year and contributions to a campaign for federal office. For more information, please see the exceptions in 1 M.R.S.A. §1015(3)(C) and (C-1).

The in-session ban applies to contributions made directly to the candidate and indirectly through a political action committee (PAC), political committee, or political party. For example, a lobbyist may not make a contribution to a legislative caucus PAC or a leadership PAC during session, unless the contribution meets the exceptions in §1015(3)(C) and (C-1). An organization that employs a lobbyist and that is closely affiliated with a PAC may not direct the PAC to make a contribution during the legislative session.

Lobbyists may make \$5 qualifying contributions to candidates for Legislature and Governor who are attempting to qualify for public financing under the Maine Clean Election Act. Lobbyists may not make seed money contributions (donations of up to \$100 from individual-contributors) to a candidate during the legislative session, except as provided in the exceptions in 1 M.R.S.A. §1015(3)(C) and (C-1).

Contributions from lobbyists to privately financed candidates are subject to the contribution limitations (\$250 for candidate for Legislature and \$500 for gubernatorial candidates). These limitations apply per election, so for example a lobbyist may make an out-of-session contribution of up to \$250 to a candidate who is running in a primary election. If the candidate becomes the nominee of the party, the lobbyist may make another contribution of up to \$250 to the candidate for the general election.

A campaign contribution consisting of funds from a lobbyist's employer (client) must be made in the name of the employer – not the lobbyist. The Election Law forbids any person “mak[ing] a contribution in the name of another person, or knowingly permitting his name to accomplish such a contribution.” (21-A M.R.S.A. §1004(1))

OTHER RESTRICTED ACTIVITIES

Contingent Compensation

A person may not accept employment as a lobbyist if the proposed compensation is contingent on the outcome of legislative action.

Instigation of Legislative Action

No person shall instigate the introduction or commencement of any legislative action for the purpose of obtaining employment as a lobbyist to oppose or support such legislative action.

LAWS GOVERNING LOBBYING

The disclosure of lobbyist activities is governed by 3 M.R.S.A. §§311 - 326. Lobbyists may also wish to review:

- Governmental Ethics Law (1 M.R.S.A. §§1001 - 1023)
- Campaign Reports and Finances Law (21-A M.R.S.A. §§1001 - 1105)

- Maine Clean Election Act (21-A M.R.S.A. §§1121 - 1128)
- Criminal Statutes on Bribery and Corrupt Practices (17-A M.R.S.A. §§601 - 609)
- Ethics Commission Rules

These statutes and rules are available on the Commission's website, www.maine.gov/ethics.

ADVICE FROM THE COMMISSION

The Ethics Commission staff can provide assistance in completing forms, including informal guidance in person, by e-mail, and by phone. If you have questions regarding lobbying reporting requirements, please contact the Commission's lobbyist registrar at 287-4179.

PUBLIC AVAILABILITY OF INFORMATION

All information provided on lobbyist forms is available for public viewing at the Commission's office and on the website.

FILING A COMPLAINT WITH THE COMMISSION

Any person may file a complaint with the Commission specifying any alleged violation of 3 M.R.S.A. §§311 - 326. The Commission may request that any party named in the complaint comply with the provisions of the law or may request that the Attorney General investigate the complaint.

LOBBYING FAQ

This is the FAQ the Commission issued in November 2005 to help lobbyists and employers interpret the law. It is intended to provide general guidance. All lobbyists and employers are encouraged to read the statute carefully (3 M.R.S.A. §§ 311 – 326), in particular the definitions in §312-A, and to adhere to its provisions. If a lobbyist or employer has questions regarding disclosure procedures, they are urged to contact Commission staff at 287-4179 prior to filing a report.

The Ethics Commission staff frequently receives questions regarding what kinds of activities constitute "lobbying." Lobbying is defined by Maine statute (3 M.R.S.A. § 312-A) and generally refers to communicating directly with an official in the Legislature for the purpose of influencing legislative action, including time spent preparing and submitting oral or written proposals, testimony or analysis concerning any legislative action. It also includes communicating with the Governor for the purpose of influencing the approval or veto of a legislative action.

A person has to register as a lobbyist if he or she spends more than 8 hours in any calendar month engaging in lobbying and if that person is compensated by an employer for the time spent lobbying. Activities on the lobbyist's personal time do not constitute lobbying.

This memo is intended to offer consistent guidance to lobbyists and employers in determining when the 8-hour threshold has been met and what activities must be included in the lobbyist's monthly reports. The guidance is not binding -- only statutes and rules are legally enforceable -- but it reflects the Commission's interpretation of the statutes governing lobbying in Maine and may be relied upon by the Commission in considering specific complaints or questions that may arise in the future. In the past, the Commission held a broader interpretation of the law, but has decided that a narrow approach is more appropriate.

Does lobbying include...	
...sitting and waiting for an opportunity to communicate with Legislators?	No. Only direct communication is considered lobbying.
...monitoring legislation?	No. Attending a hearing or work session to monitor the progress of legislation is not lobbying, as long as the lobbyist does not communicate with a Legislator.
...travel time to the State House or other event for the purpose of communicating with Legislators?	No.
...speaking to a Legislator about general issues of interest to the employer?	As long as the communication with the Legislator is not intended to influence the drafting or consideration of a specific legislative action, the communication is not considered lobbying.
...educational seminars for Legislators?	No, provided the seminar is to educate Legislators about the employer's business or general issues of interest and not specific legislation as outlined above.
...communicating with the employer regarding a specific LD?	If the communication is part of preparing a proposal, testimony, or analysis concerning a legislative action, the communication is lobbying. If it is for another purpose (e.g., reporting to the client on the progress of legislation), the communication is not lobbying.
...research for a specific LD?	Yes, if the research will be used for a proposal, testimony, or analysis concerning a legislative action. Otherwise, the research is not lobbying.
...communicating with staff of the Legislature?	Yes. If the communication deals with specific matters as outlined above.